

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MICHAEL ROGERS,)	
)	
Charging Party)	Cause No. 0031010438
)	
vs.)	
)	ORDER AFFIRMING NOTICE
)	OF DISMISSAL
)	
HUNTLEY PROJECT SCHOOL,)	
)	
Respondent.)	

The above-captioned matter came before the Montana Human Rights Commission (Commission) on September 18, 2003. The Commission considered Charging Party's objection to the Notice of Dismissal of his complaint. Oral argument was not requested.

After reviewing the record, the Commission concludes that the Human Rights Bureau properly dismissed the matter. The Montana Human Rights Act (h/a "the Act") prohibits an employer from discriminating against a person on the basis of his or her disability. *Mont. Code Ann. § 49-2-303* Therefore, an employment relationship must exist to invoke the protection of the Act. There is sufficient evidence in the record to support the determination by the Human Rights Bureau that Charging Party was not an "employee." A complaint may be dismissed prior to investigation if the charging party does not allege facts, which, at a minimum, constitute a short and plain statement of the claim showing that the charging party is entitled to relief. *Admin. R. Mont. 24.8.403(2)* The Commission concludes Charging Party failed to establish that he is entitled to relief under the Montana Human Rights Act. *See Mont. Code Ann. § 49-2-501(3); Admin. R. Mont. 24.8.403(2)* Therefore, the Commission determines there was no abuse of discretion by the Human Rights Bureau in its issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) and Admin. R. Mont. 24.9.1714(5)* If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

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IT IS HEREBY ORDERED, that Charging Party's objection is overruled and notice of dismissal is affirmed.

Dated this _____ day of September 2003

Mr. Gary Hindoien, Chair
Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersign employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on September ____, 2003.

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Montana Human Rights Bureau